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Zuffa, LLC
8

9 UNITED STATES DISTRICT COURT
10 DISTRICT OF NEVADA

11 ZUFFA, LLC, a Nevada limited liability)
12 company,)
13 Plaintiff,) Case No.
14 vs.) **COMPLAINT**
15 DOES 1-100, ROE BUSINESS ENTITIES 1-)
16 100,)
17 Defendants.)

18
19 Plaintiff Zuffa, LLC alleges as follows:

20 **NATURE OF THE CASE**

21 This is an action for trademark counterfeiting, trademark infringement, and unfair
22 competition under the Lanham Act, with pendent claims for state deceptive trade practices,
23 intentional interference with prospective economic advantage, and negligent interference with
24 contractual relations. Plaintiff seeks actual damages, Defendants' profits, and/or statutory
25 damages, and an award of attorneys' fees and costs, and preliminary and permanent injunctive
26 relief.

27 **JURISDICTION AND VENUE**

28 1. This is an action for trademark infringement, trademark counterfeiting, and unfair

1 competition arising under the Lanham Act, 15 U.S.C. §§ 1051 et. seq. This Court has subject
 2 matter jurisdiction over this case pursuant to 28 U.S.C. §§ 1331 and 1338(a) & (b). This Court
 3 has supplemental jurisdiction over Plaintiff's state law claims pursuant to 28 U.S.C. § 1367(a).

4 2. This Court has, or will have, personal jurisdiction over Defendants because, upon
 5 information and belief, Defendants are or will be physically present in this forum in connection
 6 with the claims asserted below.

7 3. Venue is proper in the United States District Court for the District of Nevada
 8 under 28 U.S.C. §§ 1391(b) & (c) and 1400. Venue lies in the unofficial Southern division of
 9 this Court.

10 **PARTIES**

11 4. Plaintiff Zuffa, LLC ("Zuffa"), is a Nevada limited liability company in the
 12 business of producing and promoting mixed martial arts bouts. Plaintiff's principal place of
 13 business is in Las Vegas, Nevada.

14 5. Defendants Does are individuals who are sued under fictitious names because
 15 their true names and identities are currently unknown. Zuffa will amend the Complaint once
 16 their true identities and capacities are ascertained.

17 6. Defendants Roe Business Entities are business entities who are sued under
 18 fictitious names because their true names are currently unknown. Zuffa will amend the
 19 Complaint once their true names are ascertained.

20 **ALLEGATIONS COMMON TO ALL COUNTS**

21 7. Zuffa, LLC does business as the Ultimate Fighting Championship® ("UFC®")
 22 brand, both registered trademarks.

23 8. Zuffa is a private company, with its principal place of business in Las Vegas,
 24 Nevada, that promotes Mixed Martial Arts ("MMA") contests or exhibitions.

25 9. MMA contests involve bouts between athletes skilled in the various disciplines of
 26 all martial arts including karate, jiu-jitsu, boxing, kick-boxing, grappling, wrestling and other
 27 combat sports.

28 10. UFC® live events take place in large arenas, for example, at the MGM Garden

1 Arena in Las Vegas, Nevada, the Staples Center in Los Angeles, California and other large
2 arenas throughout the United States. The events generally last for only one night.

3 11. Much like at other large sporting events, Zuffa sells officially licensed
4 merchandise bearing the UFC® trademark at the arenas hosting its UFC® live events.

5 12. Such merchandise includes t-shirts, sweatshirts, hats, tank tops and shorts.
6 Licensed UFC® merchandise are high-quality products that range in price from \$15 to \$70.

7 13. The UFC name and logo are trademarks that are owned by Plaintiff and registered
8 on the Principal Register of the United States Patent and Trademark Office, including, among
9 others:

10 a. UFC: Registration No. 2,645,312 for clothing and wearing
11 apparel, including sweatshirts, tee-shirts; polo shirts; golf shirts; tank tops;
12 hats; caps; visors; and for entertainment services, namely production of martial
13 arts competitions, events, and information;

14 b. UFC: Registration No. 2,941,044 for, among other things,
15 posters, postcards and magazines;

16 c. UFC (stylized): Registration No. 2,706,754 for clothing
17 including sweatshirts, tee-shirts; muscle shirts; tank tops; bathing suits; beach
18 wear; jogging suits; shorts; shirts; gloves; underwear; jerseys; hats; caps; for
19 martial arts gloves; karate gloves; wrestling gloves; boxing gloves; and for
20 entertainment services;

21 d. THE ULTIMATE FIGHTING CHAMPIONSHIP: Registration
22 No. 2,576,367 for paper goods, including posters, postcards and magazines; and
23 for clothing, including shirts, jerseys, hats and caps; and

24 e. OCTAGON GIRLS: Registration No. 4,026,333 for clothing
25 (the "UFC® Marks").

26 14. These federal trademark registrations have not been abandoned, canceled, or
27 revoked. Moreover, Registration No. 2,645,312; Registration No. 2,941,044; Registration No.
28 2,706,754; and Registration No. 2,576,367 have become incontestable through the filing of
Section 8 and 15 affidavits in the Patent and Trademark Office.

15. Since 1993, Plaintiff and its predecessors-in interest have continuously used the
UFC® Marks in connection with advertising and promoting the property in the United States and
around the world.

16. Plaintiff and its predecessors-in-interest have spent millions of dollars to
advertise and promote the UFC® Marks in print, broadcast media, and on the Internet through

1 the UFC® website accessible throughout the United States and around the world at <ufc.com>,
2 among others.

3 17. In addition, Plaintiff has made extensive use of the UFC® Marks on, among other
4 things, signage, wearing apparel, souvenirs, promotional materials and especially in connection
5 with the broadcast of MMA events.

6 18. Based on its federal trademark registrations and extensive use, Plaintiff owns the
7 exclusive right to use the UFC® Marks in connection with MMA contests or exhibitions and
8 related goods and services, including on clothing and hats.

9 19. The UFC® Marks have become distinctive and famous in the United States and
10 throughout the world for MMA contests or exhibitions and related goods and services.

11 20. Plaintiff, in connection with the Las Vegas Convention and Visitors Authority
12 (“LVCVA”), will host the First Annual International Fight Week in Las Vegas, Nevada, which
13 will take place around from July 3 through July 7, 2012, and will culminate on July 7 with
14 UFC® 148 at the MGM Garden Arena.

15 21. Some of the most memorable UFC® events in history have taken place around
16 4th July weekend and a firm tradition was born in July 2009, when the milestone UFC® 100
17 event brought over 60,000 fight fans from around the world to Vegas.

18 22. Plaintiff and LVCVA have partnered to make the July fight event not just a Las
19 Vegas tradition, but a signature sporting occasion which will draw fans from all over the globe to
20 the fight capital of the world. It is intended that this will become an annual tradition for the UFC
21 in Las Vegas.

22 23. The First Annual International Fight Week will be the ultimate week-long
23 experience for UFC® fans. The inaugural week long celebration of the UFC® will feature the
24 largest ever gathering of fighters and unprecedented access to UFC® stars, the biggest UFC®
25 Fan Expo yet, open workouts with UFC® 148 fighters, pool parties and pub crawls hosted by
26 fighters and Octagon Girls®, a concert, and UFC® 148.

27 24. Some of the biggest properties in Las Vegas will be hosting UFC® themed
28 events during International Fight Week, including the MGM Grand, Mandalay Bay, the Palazzo,

1 the Wynn, the Palms, the EA Sports Lounge at the Cosmopolitan, a Fremont Street experience at
2 the D, Golden Nugget, Golden Gate and El Cortez plus much more.

3 25. Throughout International Fight Week, official UFC® merchandise will be
4 available for sale to consumers through a number of authorized vendors. And, as with every
5 UFC® event, consumers will also be able to purchase official UFC® merchandise at UFC® 148.

6 26. Zuffa also has numerous upcoming UFC® live events scheduled throughout the
7 United States in the coming months and through the end of the year, including the following for
8 which information is publicly available:

- 9 a. UFC® on Fuel TV 4 at the HP Pavilion in San Jose, California on July 11;
10 b. UFC® on Fox 4 at the Staples Center in Los Angeles, California on
11 August 4; and
12 c. UFC® 150 at the Pepsi Center in Denver, Colorado on August 11.

13 Zuffa has not yet publicly released the remainder of its schedule for the rest of the 2012 calendar
14 year.

15 27. Upon information and belief, Defendants are engaged in the manufacture,
16 distribution and sale of unauthorized merchandise, including t-shirts, sweatshirts, hats, tank tops
17 and shorts, that bear Zuffa's UFC® Marks (the "Infringing Merchandise").

18 28. The Infringing Merchandise appears the same as Zuffa's officially licensed
19 merchandise, but is generally of inferior quality.

20 29. Defendants' modus operandi is simple: create cheap imitations of Zuffa's
21 officially licensed UFC® merchandise; set up shop at UFC® live events; and sell unsuspecting
22 consumers inferior goods that they believe are affiliated with the UFC® brand at prices far lower
23 than those for officially license merchandise.

24 30. In almost every instance, the infringing products that Defendants are selling are
25 identical, indicating that they are supplied by a common source. Individual Defendants are
26 recognized from venue to venue as they appear at the various UFC® live events.

27 31. UFC® live events routinely sell out or almost sell out; there will be hundreds of
28 thousands of people throughout the country who will participate in a UFC® live event. UFC®

1 fans frequently seek to purchase souvenir merchandise, including t-shirts, sweatshirts, posters,
2 and hats.

3 32. Defendants are typically located outside the venue for the event and, therefore,
4 have the first and last opportunity to make sales. Occasionally, Defendants will actually sell
5 their Infringing Merchandise inside the event venue.

6 33. Given the transient nature of UFC® live events, Defendants can appear, sell their
7 Infringing Merchandise, and then disappear; only to reappear at the next live event.

8 34. When approached by Zuffa and requested to identify themselves, Defendants
9 either refuse or provide false information.

10 35. Defendants will ignore Zuffa's requests to stop selling their Infringing
11 Merchandise or respond that they want to see our "injunction" or "order" or else they will not
12 stop their infringing activities.

13 36. There is nothing preventing Defendants from continuing their pattern of free
14 riding on Zuffa's efforts at the International Fight Week and/or the next UFC® live event,
15 because Defendants can and do continue to manufacture, distribute and sell Infringing
16 Merchandise in complete disregard of Zuffa's rights.

17 37. Zuffa has never authorized, approved or consented to Defendants' use of the
18 UFC® Marks in connection with any goods or services whatsoever.

19 38. Defendants' Infringing Merchandise is intended to and is likely to cause
20 confusion among consumers, deceiving them into believing the Infringing Merchandise is
21 authorized, approved or sponsored by Zuffa, when it is not.

22 39. Zuffa has no adequate remedy at law and is suffering, and will continue to suffer,
23 irreparable harm as a result of Defendants' acts.

24 **COUNT I**

25 (Trademark Counterfeiting under
the Lanham Act, 15 U.S.C. § 1114(1))

26 40. Zuffa incorporate the allegations in the preceding paragraphs as if full set forth
27 herein.

41. Without Zuffa's consent, the Defendants used a spurious mark that is identical or substantially indistinguishable from the UFC® Marks on goods, labels, and packages intended to be used in commerce upon or in connection with the sale, offering for sale, distribution, or advertising of goods with which such use is likely to cause confusion, or to cause mistake, or to deceive.

42. As a direct and proximate result of Defendants' infringement, Zuffa has suffered, and will continue to suffer, monetary loss and irreparable injury to its business, reputation, and goodwill.

43. Defendants' conduct constitutes willful counterfeiting.

44. Pursuant to 15 U.S.C. §§ 1117(b) and (c), Defendants are liable for, at Zuffa's election: (a) statutory damages in an amount up to \$1,000,000 per mark infringed; or (2) an amount representing three times Zuffa's damages and Defendants' illicit profits; and (3) Zuffa's reasonable attorneys' fees.

COUNT II

(Trademark Infringement under
the Lanham Act, 15 U.S.C. § 1114)

45. Zuffa incorporates the allegations in the preceding paragraphs as if fully set forth herein.

46. Defendants have used and/or are using in commerce Zuffa's UFC® Marks.

47. Defendants' use in commerce of a mark identical or confusingly similar to Zuffa's UFC® Marks constitutes a reproduction, copying, counterfeiting, and colorable imitation of Zuffa's trademarks in a manner that is likely to cause confusion or mistake or is likely to deceive consumers.

48. By using a mark identical or confusingly similar to Zuffa's trademarks with the knowledge that Zuffa owns and has used, and continues to use, its trademarks in Las Vegas, across the United States, and around the world, Defendants have intended to cause confusion, cause mistake, or deceive consumers.

49. Defendants are using a mark identical and/or confusingly similar to Zuffa's trademarks in connection with the sale, offering for sale or advertising of services in a manner

1 that is likely to cause confusion, or to cause mistake, or to deceive consumers as to affiliation,
 2 connection, or association with Zuffa or as to the origin, sponsorship, or approval of Defendants'
 3 services or commercial activities by Zuffa.

4 50. Defendants' use of marks identical and/or confusingly similar to Zuffa's
 5 trademarks has created a likelihood of confusion among consumers who may falsely believe that
 6 Defendants are associated with Zuffa or that Zuffa sponsors or approves of Defendants.

7 51. As a direct and proximate result of Defendants' infringement, Zuffa has suffered,
 8 and will continue to suffer, monetary loss and irreparable injury to its business, reputation, and
 9 goodwill.

10 **COUNT III**
 11 (Unfair Competition under the
 Lanham Act, 15 U.S.C. § 1125(a))

12 52. Zuffa incorporates the allegations in the preceding paragraphs as if fully set forth
 13 herein.

14 53. Defendants' use in commerce of a mark identical or confusingly similar to Zuffa's
 15 trademarks in connection with the sale of goods constitutes a false designation of origin and/or a
 16 false or misleading description or representation of fact, which is likely to cause confusion, cause
 17 mistake, or deceive as to affiliation, connection, or association with Zuffa, or as to the origin,
 18 sponsorship, or approval of Defendants' goods or commercial activities by Zuffa.

19 54. Defendants' use in commerce of a mark identical or confusingly similar to Zuffa's
 20 trademarks with the knowledge that Zuffa owns and has used, and continues to use, its
 21 trademarks constitutes intentional conduct by Defendants to make false designations of origin
 22 and false descriptions about Defendants.

23 55. As a direct and proximate result of such unfair competition, Zuffa has suffered,
 24 and will continue to suffer, monetary loss and irreparable injury to its business, reputation, and
 25 goodwill.

26 56. Defendants' actions were done willfully, with the intent to cause injury to Zuffa,
 27 and in conscious disregard of Zuffa's rights. Therefore, Defendants are guilty of malice,
 28

COUNT IV
**(Intentional Interference With
Economic Advantage)**

59. At the time Defendants adopted and began creating and selling the Infringing Merchandise and since that time, Defendants knew and have known that Zuffa is in the business of manufacturing, distributing and selling licensed UFC® merchandise.

61. Defendants' actions have disrupted or are intended to disrupt Zuffa's business.

63. As a direct and proximate result of Defendants' intentional interference with
s prospective economic advantage, Zuffa has suffered, and will continue to suffer,
ary damages and irreparable injury.

64. Zuffa incorporates the preceding allegations as if fully set forth herein.

66. Defendants were negligent and failed to exercise due care in its actions towards Zuffa with respect to Zuffa's contractual relations with its vendors and retailers.

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68. As a direct and proximate result of Defendants' negligent interference with Zuffa's contractual relations, Zuffa has suffered, and will continue to suffer, monetary damages and irreparable injury.

PRAYER FOR RELIEF

WHEREFORE, Zuffa respectfully prays that the Court grant the following relief:

A. A temporary, preliminary and permanent injunction prohibiting Defendants and their partners, officers, agents, servants, employees and/or all persons acting in concert or participation with Defendants, from: (1) using the UFC® Marks or any confusingly similar variations thereof, alone or in combination with any other letters, words, letter strings, phrases or designs (including, but not limited to, the UFC® Marks) in commerce (including, but not limited to in manufacturing, distributing, selling, offering for sale, holding for sale or advertising any products, merchandise or goods); and (2) representing that any products merchandise or goods manufactured, distributed, sold, held for sale or advertised by them are sponsored or authorized by Zuffa in this district or in any other district in which Zuffa seeks to enforce this Court's injunction order;

B. Grant a preliminary order impounding all copies of the Infringing Merchandise and any other infringing products, and all articles by means of which such copies may be produced and a permanent order for destruction of same;

C. An award of compensatory, consequential, statutory, and/or punitive damages to Zuffa in an amount to be determined at trial, including statutory damages of up to \$1,000,000 per counterfeit mark or, at Zuffa's election, treble damages.

D. An award of interest, costs and attorneys' fees incurred by Zuffa in prosecuting this action; and

E. An award to Zuffa of punitive damages for Defendants' willful and malicious conduct; and

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1 F. All other relief to which Zuffa is entitled.

2 DATED this 27th day of June, 2012.

3 Respectfully submitted,

4 LEWIS AND ROCA LLP

5
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